

REMARKS

Claims 1-28 are in the case. Claims 8-28 have been withdrawn from consideration as directed to a non-elected invention and cancelled. Claims 1-7 have been considered by the Examiner on the merits and rejected. The Examiner's rejection is respectfully traversed, and reconsideration of the same is requested.

AMENDMENTS TO CLAIMS

Please amend the claims as indicated on the attached marked copy. The amendments do not add any new matter. Claim 1 has been amended to eliminate the requirement that the oil is removed by centrifugation or solvent extraction. New claim 29 has been added to include the preferred embodiment limitation removed from claim 1.

Claim Rejections – 35 USC § 103 (a) Obviousness

The Examiner has rejected claims 1-7 under 35 U.S.C. § 103 as being unpatentable over Singh et al. taken with Dote et al., Erlich (U.S. Patent No. 2,446,913), Wilson (U.S. Patent 3,721,568), Ganguli et al. (U.S. Patent No. 5,998,641) and Langley et al. (U.S. Patent No. 5,801,140).

As the Examiner is aware, when relying upon references to establish a *prima facie* case of obviousness under § 103, the examiner must establish that the prior art teaches or suggests each and every claim limitation. MPEP § 2143.03. As will be shown by the ensuing discussion, the Examiner has not met this burden.

Singh et al. taken With Dote et al. Erlich, Wilson, Ganguli et al., and Langley et al, do not teach all the claim limitations

The invention defined by claims 1-7 is directed to a novel process for recovering an oil stream from the whole stillage produced in the production of ethanol. In the first step, the whole stillage is separated into two separate streams: the wet distillers grain stream and the thin stillage stream. In the second step, one or both of these streams are treated to remove the oil from the stream(s).

Both the thin stillage and the wet distillers streams are *wet* streams. Thus claim 1 of the application requires that both the distillers grain streams and/or the thin stillage streams be treated to remove the oil *before* the streams are subject to any type of drying phase. In sharp contrast, and as correctly noted by the Examiner, both Singh and Dote teach the opposite. Both Singh and Dote teach the step of oil removal from *dried* thin stillage streams/*dried* distillers grain streams. The requirement that the oil be removed from *wet* stillage streams/*wet* distillers grain streams is a significant step in the applicant's process because one of the goals of applicant's process is to provide substantially oil-free/fat-free products, and one preferred method of achieving this goal efficiently, is to treat such streams prior to drying.

As discussed above, the Examiner notes that neither Singh nor Dote disclose this specific limitation. However, the Examiner contends that the Erlich reference teaches recovery of products directly from wet thin stillage streams/ wet distillers grain streams, and that it would have been obvious to modify the raw materials of the processes of Sing et al. and Dote et al. by replacing the dried compositions with the wet streams, as suggested by Erlich. The applicant respectfully disagrees with the Examiner's assertion

because Erlich does not teach or suggest this. At most, Erlich discloses that wet thin stillage streams/wet distillers grain streams can be treated to recover products in general. However, the fact that the prior art generally discloses that such streams can be subjected to different treatments when they are wet, does not automatically teach or suggest that such streams can be subject to an oil removing process to recover substantially fat/oil free products. As the Examiner is aware, to establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The applicant has been through the Erlich reference and finds nothing that would teach or suggest such a step. If, however, the Examiner still believes that such a teaching is present in Erlich, then the Examiner is respectfully invited to point out with particularity the portion of the reference which discloses such a teaching. Furthermore, none of the other references cited by the Examiner, i.e. Wilson, Ganguli et al., or Langley teach or disclose such a limitation either. Accordingly, the combination of Singh, Dote, Erich, Wilson, Ganguli, and Langley does *not* teach or suggest each and every limitation of claim 1 in applicant's application. Therefore, the Examiner's obviousness rejection of claim 1, and claims 2-7 dependent thereupon should be withdrawn.

Based upon the foregoing comments and amendments, the application is believed to be in condition for allowance, and an early Notice of Allowability is respectfully requested. If the Examiner believes a telephone conference will expedite the disposition of this matter, the Examiner is respectfully invited to contact this attorney at the number shown below.

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